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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------------|
| 10/758,967 | 01/16/2004 | Jerome A. Hapka | 1261.030US1 | 6516 |
| 21186 7590 06/05/2007 SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402 | | | EXAMINER A, PHI DIEU TRAN | |
| | | | ART UNIT 3637 | PAPER NUMBER |
| | | | MAIL DATE 06/05/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/758,967 | Applicant(s) HAPKA ET AL. | |
| | Examiner Phi D. A | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 23-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 23-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-13, 23-30, 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Keuser Sr. (1571012).

Keuser Sr. shows an impact resistant window assembly comprising a double hung window including a window sash (15) movably disposed within a window jamb assembly, the window sash having an exterior portion and an interior portion, a bracket assembly (figure 5) including a bracket portion (4) having at least a first position (figure 2) and a second position (figure 5), the bracket portion disposed within an outwardly extending opening of the window jamb assembly (the jamb assembly surrounding the bracket assembly) when the bracket portion is disposed in the first position, the portion disposed over a portion of the interior of the sash when the portion is in the second position, the bracket portion (4, 5) being slidable from the first position to the second position, the assembly being substantially concealed in the jamb assembly (within the perimeter of the assembly) from a frontal view of the window when the bracket is disposed in the first position, the portion including a stop (8) which prevent overextension of the portion, the sash including a rail and stile, the assembly further includes a filler (20) disposed within the window assembly, one or more fasteners (17) securing the assembly to an outer frame, the fasteners (31) are concealed from view (by the jamb assembly), the bracket assembly including a filler and a movable bracket portion (4,5), the assembly providing reinforcing to the

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interior of the sash, the bracket assembly including a base plate, the movable bracket portion is disposed between the filler and a portion of a base plate, the filler including interlock features, the features coupling the base and the movable bracket portion, the filler having an outer appearance similar to one or both of the window jamb assembly or the window jamb liner, the bracket assembly being disposed within a recess of a side portion of window, the sash being movably disposed within a window jamb assembly, the bracket portion including a tool access port on a leading edge thereof, only an edge of the bracket portion is viewable when the bracket portion is disposed in the first position, a hinge (11) about which the bracket portion moves.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keuser Sr in view of Vazquez (2003128).

Keuser Sr. shows all the claimed limitations except for the bracket portion being disposed over a portion of the rail and stile when the portion is in the second position.

Vazquez shows the attachment of a bracket over a portion of rail and stile when the bracket is in the second position.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Keuser Sr.'s structure to show the bracket portion being disposed over a

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portion of the rail and stile when the portion is in the second position because it enables the locking of both the stile and rail of the window in place as taught by Vazquez.

Response to Arguments

Applicant's arguments with respect to claims 1-13, 23-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different window bracket device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of several loops and a large circular flourish at the end.

Phi Dieu Tran A

5/29/07